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EXAMINER

JEAN GILLES, JUDE

ART UNIT PAPER NUMBER

2143

DATE MAILED: 10/06/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/895,434	Applicant(s) REED ET AL.	
	Examiner Jude J Jean-Gilles	Art Unit 2143	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on 29 June 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-35 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-35 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 29 June 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☒ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date. _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

This office action is responsive to communication filed on 06/28/2001.

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1-10, 12-17, 20-25, 28-32, and 34 are rejected under 35 U.S.C. 102(e) as being unpatentable by Sistanizadeh et al (U.S. 6,681,232).

Regarding claim 1: Sistanizadeh et al teach an apparatus for gathering network device data (*fig. 12, items 107, 351*), the apparatus comprising:

a first non-volatile memory on the network device, said first memory storing defined device-specific data and being writable via the network and being readable (*fig. 12, items 107, 253; column 34, lines 14-19, 64-67*);

a physical read port on the network device, said physical port including a set of one or more signals defining a physical interface and a protocol for reading said data from said first memory (*fig. 12, items 259, 253-254; column 33, lines 56-67; column 34, lines 14-22*); and

data-gathering means physically separate from but compatible with said read port and programmed to read said data from said first memory in accordance with said protocol, said data-gathering means including a second non-volatile memory (*fig. 351, item 353*) for recording said data read from said first memory (*fig. 107, item 253*), thereby enabling a user to gather and record network device data specific to the network device (*column 35, lines 57-63*).

Regarding claim 2: Sistanizadeh et al teach the apparatus of claim 1, wherein said non-volatile memory is partitioned to include plural storage locations for data of various types (*column 34, lines 64-67; column 34, lines 1-3*), said types including network device identification data (*column 24, lines 48-59; Sistanizadeh et al disclose a latency agent, connected to the M-POP switch, that pings any remote device in the network, having an IP address*).

Regarding claim 3: Sistanizadeh et al (*column 23, lines 46-62*) teach the apparatus of claim 2, wherein said network device identification data include one or more of the hostname, the Internet protocol (IP) address, the medium access control (MAC) address, one or more common language Location Identifier (CLLI) codes and physical device location information for the network device (*column 24, lines 48-59; Note that the IP address is used to ping the device, and in order to ping a remote device, the location of the device must be inherently disclosed*).

Regarding claim 4: Sistanizadeh et al teach the apparatus of claim 2, wherein said types further include network device configuration data (*column 30, lines 34-48*).

Regarding claim 5: Sistanizadeh et al teach the apparatus of claim 4, wherein said network device configuration data include hardware and software configuration data (*column 20, lines 65-67; column 30, lines 34-48; Sistanizadeh et al disclose an agent plane that consists of special hardware and software components used to monitor, manage and control the health of the network and its services*).

Regarding claim 6: Sistanizadeh et al teach the apparatus of claim 5, wherein said hardware and software configuration data include hardware and software revision indicia (*column 7, lines 65-67; column 8, lines 1-7; fig. 1, items 115, 117; note that the analyzer reviews the data passing through a specified link or port and captures selected data therefrom in a non-intrusive fashion*).

Regarding claim 7: Sistanizadeh et al teach the apparatus of claim 1, wherein said physical port is mounted in an accessible physical location on the network device (*fig. 12, item 259; According to the Microsoft Computer dictionary Fifth Edition, a port is known as an interface through which data is transferred between a computer and another devices; note that Sistanizadeh et al disclose "the interface 259 could include a modem for telnet sessions, but preferably comprises one or more network interface cards, such as Ethernet cards"*).

Regarding claim 8: Sistanizadeh et al teach the apparatus of claim 7, which comprises plural instances of said physical port in at least two distinct physical locations thereon, said plural instances of said physical port providing parallel access to said first non-volatile memory for reading the device-specific data therefrom (*column 34, lines 14-32; note Sistanizadeh et al disclose the*

system 107 that includes one or more input/output interfaces for communications, shown by way of example as an interface 259 may include a modem, but preferably comprises one or more network interface cards, such as Ethernet cards”).

Regarding claim 9: Sistanizadeh et al teach the apparatus of claim 8, wherein said plural instances of said physical port are at least two instances and wherein said two physical ports are physically located adjacent forward and rearward edges of the network device (*column 35, lines 15-20; fig. 1, items 359, 356; Note that the item 359 is located forward of the network device and item 356 is located at the rearward*).

Regarding claim 10: Sistanizadeh et al teach the apparatus of claim 1, wherein said protocol is bit serial (*column 10, lines 64-67; column 11, lines 1-5; column 31, lines 38-47*).

Regarding claim 12: Sistanizadeh et al teach the apparatus of claim 1, wherein said data are stored in accordance with a predefined format (*column 17, lines 23-27; note that it is well known in the art that all HTML and XML Internet protocols used predefined stored format tags*).

Regarding claim 13: Sistanizadeh et al teach the apparatus of claim 12, wherein said predefined format is in accordance with the Extensible Markup Language (XML) standard (*column 17, lines 23-27*).

Regarding claim 14: Sistanizadeh et al teach a method of gathering network device data, the method comprising:

providing a network device with a non-volatile memory and with an externally accessible physical data read port thereto (*fig. 12, item 107, 253, 259; column 17, lines 14-19, 24-28, 64-67*);and

programming one or more memory locations in the network device with data regarding a defined identification and a defined configuration of the network device, the one or more memory locations being readable by an external reader mechanism over the data read port (*column 23, lines 30-46; Note that the one or more memory locations could be an integrated circuit non-volatile memory adapter (i.e. PCMIA) adapter to input and output data and code to and from the computer system 351 as stated in lines 12-13 of column 35*).

Regarding claim 15: Sistanizadeh et al teach the method of claim 14 which further comprises:

providing a portable reader mechanism external to the network device but physically and logically compatible therewith for reading and recording the programmed data from the network device (*column 35, lines 10-15*).

Regarding claim 16: Sistanizadeh et al teach the method of claim 15, wherein said programming of the one or more memory locations is with data stored in a predefined format (*column 17, lines 23-27; note that it is well known in the art that all HTML and XML Internet protocols used predefined stored format tags*).

Regarding claim 17: Sistanizadeh et al teach the method of claim 16, wherein said providing of the externally accessible physical data read port is in accordance with a predefined physical and logical interface and wherein said

providing of said portable reader mechanism is performed in such manner that the reading and recording of the programmed data from the network device is in accordance with a predefined protocol (*column 17, lines 23-31; Sistanizadeh et al disclose that the user interface through the web server 111 to the service level manager in fig. 6 uses standard internet protocols, such as HTML or XML over HTTP*).

Regarding claim 20: Sistanizadeh et al teach a computer-readable medium containing a program for gathering network device data by an external reader mechanism from a network device (*column 18, lines 43-47*), the program comprising:

instructions residing in the network device for programming one or more memory locations in the network device with data regarding a defined identification and a defined configuration of the network device (*fig. 12, item 107, 253, 259*), the one or more memory locations being readable by an external reader mechanism over an externally accessible physical data read port thereto, said programming instructions being executable responsive to a write command

received over a network communication line (*column 35, lines 9-15*), and

instructions residing in the network device for providing read access, of the programmed data in the one or more memory locations in the network device, to the external reader mechanism responsive to a read prompt from the external reader mechanism (*column 23, lines 33-37; note that Sistanizadeh et al disclose a special program, sometimes referred to as the RMON (Remote*

Monitoring) Manager, that controls the operation of the RMON probe and collects statistics and data captured by the probe).

Regarding claim 21: Sistanizadeh et al teach the computer-readable medium in accordance with claim 20, which computer readable medium further comprises:

instructions residing in the external reader mechanism for prompting a read of the programmed data in the one or more memory locations in the network device and for storing the data read therefrom in a non-volatile memory location within the external reader mechanism (*column 23, lines 40-45*).

Regarding claim 22: Sistanizadeh et al teach the computer-readable medium in accordance with claim 21, wherein the programming of the one or more memory locations within the network device is with data stored in a predefined format and wherein the storing of the programmed data within the external reader mechanism is also in a predefined format (*column 17, lines 23-27; note that it is well known in the art that all HTML and XML Internet protocols used predefined stored format tags*).

Regarding claim 23: Sistanizadeh et al teach Apparatus for gathering network device data (fig. 12, item 351) comprising:

means for providing a network device with a non-volatile memory and with an externally accessible physical data read port thereto (*fig. 12, item 107, 253, 259; column 17, lines 14-19, 24-28, 64-67*), and

means for programming one or more memory locations in the network device with data regarding a defined identification and a defined configuration of

the network device, the one or more memory locations being readable by an external reader mechanism over the data read port (*column 23, lines 30-46; Note that the one or more memory locations could be an integrated circuit non-volatile memory adapter (i.e. PCMIA) adapter to input and output data and code to and from the computer system 351 as stated in lines 12-13 of column 35*).

Regarding claim 24: Sistanizadeh et al teach the apparatus of claim 23 which further comprises:

means for providing a portable mechanism external to the network device but physically and logically compatible therewith for reading a recording the programmed data from the network device (*column 35, lines 10-15*).

Regarding claim 25: Sistanizadeh et al teach the apparatus of claim 24 wherein said means for providing of the externally accessible physical data read port includes a predefined physical and logical interface and wherein said means for providing of said portable reader mechanism includes means for reading and recording of the programmed data from the network device in accordance with a predefined protocol (*column 17, lines 23-31; Sistanizadeh et al disclose that the user interface through the web server 111 to the service level manager in fig. 6 uses standard internet protocols, such as HTML or XML over HTTP*).

Regarding claim 28: Sistanizadeh et al teach an apparatus for gathering network device data from a network device having a physical port for exporting network device-specific data stored in a memory device therein, the apparatus comprising:

a portable device (*fig. 12, items 107, 255; column 35, lines 9-14*);

a non-volatile memory within said portable device (*column 35, lines 9-14*);
a processor coupled with the non-volatile memory within said portable device (*column 35, lines 4-6; fig. 1, item 252-253*); and

a physical port on the portable device, said physical port including a set of one or more signals defining a physical interface and a protocol for reading data from the memory device in the network device (*fig. 12, items 259, 253-254; column 33, lines 56-67; column 34, lines 14-22*),

wherein the non-volatile memory within said portable device is partitioned to include plural storage locations for data of various types, said types including network device identification data (*column 24, lines 48-59; Sistanizadeh et al disclose a latency agent, connected to the M-POP switch, that pings any remote device in the network, having an IP address*), thereby enabling a user to gather and record network device data and to transport such network device data to a remote location (*column 35, lines 57-63*).

Regarding claim 29: Sistanizadeh et al teach the apparatus of claim 28, wherein said network device identification data include one or more of the hostname, the Internet protocol (P) address, the medium access control (MAC) address, one or more common language location identifier (CLLI) codes and physical device location information from the network device (*column 24, lines 48-59; note that the IP address is used to ping the device, and that in order to ping a remote device, the location of the device must be inherently disclosed*).

Regarding claim 30: Sistanizadeh et al teach the apparatus of claim 29, wherein said types further include network device configuration data (*column 30, lines 34-48*).

Regarding claim 31: Sistanizadeh et al teach the apparatus of claim 30, wherein said network device configuration data include firmware and software configuration data (*column 20, lines 65-67; column 30, lines 34-48; Sistanizadeh et al disclose an agent plane that consists of special hardware and software components used to monitor, manage and control the health of the network and its services*).

Regarding claim 32: Sistanizadeh et al teach the apparatus of claim 28, wherein said protocol is bit serial (*column 10, lines 64-67; column 11, lines 1-5; column 31, lines 38-47*).

Regarding claim 34: Sistanizadeh et al teach the apparatus of claim 28, wherein said data are stored in accordance with a predefined format (*column 17, lines 23-27; note that it is well known in the art that all HTML and XML Internet protocols used predefined stored format tags*).

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 11, 18-19, 26-27, 33, and 35 are rejected under 35 U.S.C. 102(e) as being unpatentable over Sistanizadeh et al (U.S. 6,681,232) in view of Pascucci et al (U.S. 6,115,713).

Regarding claim 11: Sistanizadeh et al teach the apparatus of claim 10, but fail to teach an apparatus wherein said interface and protocol are in accordance with the RS-232 standard.

However, Pascucci et al (column 26, lines 43-50; fig. 1, item 1-11) teach *"network control module 1-11 that has a standard RS-232 interface 1-11 with a plurality of ports to provide communication through a modem over another port 1-13, a specialized network terminal over port 1-15 and a computer, or printer over port 1-17."*)

It would have been obvious for an ordinary skill in the art at the time of the invention to use the bit serial communication protocol of Sistanizadeh et al and incorporate Pascucci et al's RS-232 standard to *"allow network control and communications with interconnected devices within the network"* as stated by Pascucci in lines 49 and 50 of column 26.

Pascucci et al teach that it is old and well known in the networking art to get the advantage of using RS-232 standard in a bit serial communication system to enhance data access. An artisan in the networking art at the time of the invention would have been motivated to include this combination to get this advantage in a network management and analysis apparatus.

Regarding claim 18: Sistanizadeh et al teach the method of claim 17, wherein the protocol is bit serial, wherein the data are stored in a predefined format, but differ from the current invention in that they do not disclose a method wherein the interface and protocol are in accordance with the RS-232 standard.

However, Pascucci et al (*column 26, lines 43-50; fig. 1, item 1-11*) teach a *"network control module 1-11 that has a standard RS-232 interface 1-11 with a plurality of ports to provide communication through a modem over another port 1-13, a specialized network terminal over port 1-15 and a computer, or printer over port 1-17"*.

It would have been obvious for an ordinary skill in the art at the time of applicant's invention to use the bit serial communication protocol of Sistanizadeh et al and incorporate Pascucci et al's RS-232 standard to *"allow network control and communications with interconnected devices within the network"* as stated by Pascucci in lines 49 and 50 of column 26.

Pascucci et al teach that it is old and well known in the networking art to get the advantage of using RS-232 standard in a bit serial communication system to enhance data access. An artisan in the networking art at the time of the

invention would have been motivated to include this combination to get this advantage in a network management and analysis apparatus.

Regarding claim 19: Sistanizadeh et al and Pascucci et al teach all the limitations of claim 18 and Sistanizadeh et al further teach a method wherein said predefined format is in accordance with the Extensible Markup Language (XML) standard (*column 17, lines 23-27*).

Regarding claim 26: Sistanizadeh et al teach apparatus of claim 25 , wherein the protocol is bit serial, wherein the data are stored in a predefined format, but differ from the current invention in that they do not disclose a method wherein the interface and protocol are in accordance with the RS-232 standard.

However, Pascucci et al (*column 26, lines 43-50; fig. 1, item 1-11*) teach a “network control module 1-11 that has a standard RS-232 interface 1-11 with a plurality of ports to provide communication through a modem over another port 1-13, a specialized network terminal over port 1-15 and a computer, or printer over port 1-17”).

It would have been obvious for an ordinary skill in the art at the time of applicant's invention to use the bit serial communication protocol of Sistanizadeh et al and incorporate Pascucci et al's RS-232 standard to “allow network control and communications with interconnected devices within the network” as stated by Pascucci in lines 49 and 50 of column 26.

Pascucci et al teach that it is old and well known in the networking art to get the advantage of using RS-232 standard in a bit serial communication system to enhance data access. An artisan in the networking art at the time of the

invention would have been motivated to include this combination to get this advantage in a network management and analysis apparatus.

Regarding claim 27: Sistanizadeh et al and Pascucci et al teach all the limitations of claim 26 and Sistanizadeh et al further teach a method wherein said predefined format is in accordance with the Extensible Markup Language (XML) standard (*column 17, lines 23-27*).

Regarding claim 33: Sistanizadeh et al teach the apparatus of claim 32, but fail to teach an apparatus wherein said interface and protocol are in accordance with the RS-232 standard.

However, Pascucci et al (*column 26, lines 43-50; fig. 1, item 1-11*) teach *"network control module 1-11 that has a standard RS-232 interface 1-11 with a plurality of ports to provide communication through a modem over another port 1-13, a specialized network terminal over port 1-15 and a computer, or printer over port 1-17."*)

It would have been obvious for an ordinary skill in the art at the time of applicant's invention to use the bit serial communication protocol of Sistanizadeh et al and incorporate Pascucci et al's RS-232 standard to *"allow network control and communications with interconnected devices within the network"* as stated by Pascucci in lines 49 and 50 of column 26.

Pascucci et al teach that it is old and well known in the networking art to get the advantage of using RS-232 standard in a bit serial communication system to enhance data access. An artisan in the networking art at the time of the

Art Unit: 2143

invention would have been motivated to include this combination to get this advantage in a network management and analysis apparatus.

Regarding claim 35: Sistanizadeh et al and Pascucci et al teach all the limitations of claim 34 and Sistanizadeh et al further teach a method wherein said predefined format is in accordance with the Extensible Markup Language (XML) standard (*column 17, lines 23-27*).

Conclusion

5. Any inquiry concerning this communication or earlier communications from examiner should be directed to Jude Jean-Gilles whose telephone number is (703) 305-0269. The examiner can normally be reached on Monday-Thursday and every other Friday from 8:00 AM to 5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Wiley, can be reached on (703) 308-5221. The fax phone number for the organization where this application or proceeding is assigned is (703) 305-3719.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-3900.


Jude Jean-Gilles

Patent Examiner

Art Unit 2143

JJG

September 23, 2004


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